

### **REMARKS**

The Office Action mailed August 13, 2004 has been received and the Examiner's comments carefully reviewed. Claims 1-4, 6-9, 11-12, 20-21, 24, 26-29, and 31-32 have been amended. Claims 33 and 34 have been added. No new subject matter has been added. Claims 5, 10, 13, and 30 have been cancelled. Claims 1-4, 6-9, 11-12, 14-29, and 31-34 are currently pending. Applicants respectfully submit that the pending claims are in condition for allowance.

### **Claim Objections**

The Examiner objected to claim 24 for omitting dimensional information, and claim 28 for a grammatical error. Claims 24 and 28 have been amended to correct these errors.

### **Rejections Under 35 U.S.C. §102**

I. The Examiner rejected claims 1-4, 10-15 and 29-31 under 35 U.S.C. §102(b) as being anticipated by Mertz (U.S. Patent 4,012,070 A). Applicants respectfully traverse this rejection, but have amended claims 1-4, 12, 29, and 31, and cancelled claims 10, 13, and 30 to advance this application to allowance. Applicants reserve the right to pursue the original subject matter via a continuing application.

Mertz discloses a convertible camper vehicle or truck 10 having side panels 18, 18'. The side panels 18, 18' can be pivoted, as shown in FIG. 1, to an open position for ready access to the truck bed through side openings. The side panels 18, 18' can also be used as side overhangs to protect the user from rain. Column 4, lines 12-22. In another embodiment, berth pods 30, 31 can be stored in the truck bed (or living compartment 12). When the side panels 18, 18' are lifted or raised, the pods 30, 31 are arranged to laterally extend or slid outward through the side openings. Column 4, lines 28-33. In use, the top (15, 18, 18') of the living compartment 12 is first fully extended upward, and then the pods 30, 31 are slid out. Column 4, lines 33-36. When the pods have been slid out and the top has been raised, the living space is fully enclosed since the adjacent edges of the side panels 18, 18' fully seal with the tops of the pods 30, 31. Column 4, lines 46-52.

A. Claims 1-4 and 11

Claim 1 recites a privacy enclosure comprising a rigid enclosure including an upper region and a lower region. The upper region of the rigid enclosure structure is configured to stow within the lower region.

Mertz does not disclose an enclosure having an upper region that stows within the lower region. Rather, the top and side panels 15, 18, 18' enclose the living compartment 12 both when in a traveling position and when in a fully extended position. Column 3, lines 51-54.

At least for this reason, Applicants respectfully submit that independent claim 1, and dependent claims 2-4 and 11 are patentable.

B. Claims 12 and 14-15

Claim 12 recites a privacy enclosure including a first rigid wall and a second rigid wall. The first rigid wall is configured to pivot upward from a first position to a generally vertical position. The second rigid wall is configured to laterally extend in a direction outward from the first rigid wall when the first rigid wall is in the vertical position. The first rigid wall also includes a seating area configured to seat users when the first rigid wall is positioned in the first position.

The Examiner has characterized one of the berth pods 30 as a first rigid wall that pivots upward, and the side panel 18 as a second rigid wall that laterally extends outward from the berth pod 30. By characterizing of the berth pod 30 as the first rigid wall, the side panel 18 is required to laterally extend in a direction outward from the pod. The side panel 18 does not "laterally extend in a direction outward" from the pod. Rather, the side panel 18 extends upward from the top of the pod 30, not laterally outward. Webster's Ninth New Collegiate Dictionary defines "lateral" as "coming from the side." The panels 18, 18' come outward from the top of the pods 30, 31, not the sides of the pods.

Further, the berth pods 30, 31 do not include a seating area configured to seat users when the pods are positioned in a first position. Rather, the pods are covered by the top and side panels 15, 18, 18' so that no seating area is provided, as required by claim 12.

In the event the pod is characterized as a laterally extended wall, Applicants respectfully submit that the side panel 18 does not pivot to a generally vertical position.

Rather, the side panel 18 is positioned in a non-pivoted orientation to seal against the pod 30, as shown in FIG. 3 and described in the specification at column 4, lines 46-52.

At least for these reasons, Applicants respectfully submit that independent claim 12, and dependent claims 14-15 are patentable over Mertz.

C. Claims 29 and 31

Claim 29 recites a method of expanding a privacy enclosure including raising the enclosure structure from a reduced height configuration to a raised height configuration by pivoting a first wall to a vertical orientation; the raised height configuration permitting an average-sized adult to stand within the enclosure structure.

The Examiner has characterized one of the berth pods 30 as a first rigid wall that pivots upward. Pivoting the berth pod 30 does not expand the living compartment 12 from a reduced height configuration to a raised height configuration such that an average-sized adult can stand within the enclosure structure. Rather, the side panels 18, 18' (characterized by the Examiner as the second wall) must be raised to permit an average-sized adult to stand within the living compartment 12. Claim 29 requires that the first wall be pivoted to provide the raised height configuration, not the second wall as disclosed in Mertz.

Further, as discussed similarly with respect to claim 1, the side panel 18 does not "laterally extend in a direction outward" from the pod when the pod is in a vertical direction. Rather, the side panel 18 extends upward from the top of the pod 30, not laterally outward.

At least for these reasons, Applicants respectfully submit that independent claim 29 and dependent claim 31 are patentable.

II. The Examiner rejected claims 1-9, 12, 13 and 29-31 under 35 U.S.C. §102(b) as being anticipated by Escoto (U.S. Patent 3,352,596 A). Applicants respectfully traverse this rejection, but have amended claims 1-4, 6-9, 12, 29, and 31, and cancelled claims 5, 13, and 30 to advance this application to allowance. Applicants reserve the right to pursue the original subject matter via a continuing application.

Escoto discloses a collapsible sheltering trailer having shells 1 located over a box 2. The trailer includes front panels 12, 13 and rear panels 14, 15 that fold or collapse inwardly. To open the trailer from a closed position, a crank 19 is turned. Turning the crank 19 causes the collapsed panels 12-15 to unfold. The panels 12-15 are interconnected to the shells 1 by roof panels 10, 11 (FIG. 5). Turning the crank 19 thereby unfolds the front and rear panels 12-15, which in turn, causes the shells 1 to rotate outward and open to become sidewalls.

A. Claims 1-4 and 6-9

Claim 1 recites a privacy enclosure having a rigid enclosure structure including a first wall structure and a second wall structure. At least one of the first and second wall structures is configured to slide relative to the other to provide expansion in a lateral direction.

Escoto does not disclose a rigid enclosure having a wall structure that slides relative to another wall structure. Rather, each of the shells 1 has a hinge 25 that permits outward rotation of the shell 1 relative to the panels 12-15. The panels 12-15 also have hinges 9 that provide pivotal movement of the panels relative to one another. Each of the wall structures of Escoto rotates or pivots relative to one another. None of the wall structures slide relative to one another, as recited in claim 1.

At least for this reason, Applicants respectfully submit that independent claim 1 and dependent claims 2-4 and 6-9 are patentable.

B. Claim 12

Claim 12 recites a privacy enclosure having first and second rigid walls; the first rigid wall is configured to pivot upward from a first position to a generally vertical position. The first rigid wall also includes a seating area configured to seat users when the first rigid wall is positioned in the first position.

Escoto does not disclose a first wall that pivots upward from a first position to a vertical position, and is configured to seat users when positioned in the first position. Rather, the rear panels 12, 13 are collapsed and stored within the shells 1 when positioned in a first position. In the first position, the panels 12, 13 do not provide a seating area that seats a user on the panels 12, 13, as required by claim 12.

At least for this reason, Applicants respectfully submit that independent claim 12 is patentable.

C. Claims 29 and 31

Claim 29 recites a method of expanding a privacy enclosure. The method includes pivoting a first wall to a generally vertical orientation, and sliding a second wall in a direction relative to the first wall.

As previously described, each of the walls of Escoto rotates or pivots relative to one another. None of the walls slide in a direction relative to another wall, as recited in claim 29. At least for this reason, Applicants respectfully submit that independent claim 29 and dependent claim 31 are patentable.

III. The Examiner rejected claims 12, 13, 16-18 and 32 under 35 U.S.C. §102(b) as being anticipated by Tsuchida (JP 2000027270 A). Applicants respectfully traverse this rejection, but have amended claims 12 and 32, and cancelled claim 13 to advance this application to allowance. Applicants reserve the right to pursue the original subject matter via a continuing application.

Tsuchida discloses a toilet 16 mounted to a movable board 15. The movable board 15 can be lifted by a lift 14 from a lower position to an exposed position. A cover 12 is used to cover a cutout portion 3a in the floor 3 when the toilet 16 is in the lower position.

A. Claim 12

Claim 12 recites a privacy enclosure having a plurality of rigid walls defining an interior. A first rigid wall is configured to pivot, and includes a seating area for seating a user. The seating area is located a distance above a floor.

Tsuchida does not disclose a first pivoting wall that also has a seating area located a distance above the floor. Rather, the cover 12 of is Tsuchida designed to be flush with a cutout portion 3a of the floor 3, not located a distance above the floor 3.

At least for this reason, Applicants respectfully submit that claim 12 is patentable.

B. Claims 16-18

Claim 16 recites a privacy enclosure arrangement including a stowable enclosure. The stowable enclosure is coupled to a lower base, and has a rigid outer wall that expands from a stowed configuration to an expanded configuration.

Tsuchida does not disclose a stowable enclosure coupled to a base. Rather, Tsuchida discloses a cover connected to a moveable board 15. The cover 12 merely defines a single sidewall when positioned in an expanded position. The cover 12 does not define an "enclosure," as required by claim 16.

Instead, the enclosure of Tsuchida is provided by what appears to be curtains (65) hanging from a ceiling (4). The curtains are not coupled to a lower base, as required by claim 16. The curtains are also not a "rigid" outer wall structure, as required by claim 16.

At least for these reasons, Applicants respectfully submit that independent claim 16, and dependent claims 17 and 18 are patentable.

C. Claim 32

Claim 32 recites a privacy enclosure having an enclosure construction. The enclosure construction includes a plurality of rigid walls. A main interior is defined by the plurality of rigid walls.

Tsuchida does not disclose an enclosure construction having a plurality of rigid walls. Tsuchida also does not disclose a main interior defined by the plurality of rigid walls. Rather, the enclosure and the main interior of Tsuchida are defined primarily by curtains (65) hanging from a ceiling (4). The curtains are not rigid, as required by claim 32.

At least for these reasons, Applicants respectfully submit that independent claim 32 is patentable.

### **Rejections Under 35 U.S.C. §103**

The Examiner rejected claims 20-24 and 26-28 under 35 U.S.C. §103(a) as being unpatentable over Kovac (U.S. Patent 4,691,657) in view of Maieli et al. (U.S. Patent 5,673,962). Applicants respectfully traverse this rejection, but have amended claims 20, 21, 24, and 26-28 to advance this case to allowance.

Claim 20 recites a boat having a privacy enclosure. The privacy enclosure includes an enclosure structure positionable in a collapsed configuration and an expanded configuration. The privacy enclosure also includes a toilet positioned within the enclosure structure when the enclosure structure is in both the collapsed configuration and the expanded configuration.

Kovac does not teach or suggest a privacy enclosure as recited in claim 20. Maieli does not make up for the deficiencies of Kovac. In particular, Maieli does not teach or suggest a privacy enclosure having a toilet positioned within an enclosure structure when the enclosure structure is in a collapsed configuration. Rather, Maieli teaches a foldout enclosure 56 having a pair of side walls 87. As shown in FIG. 11, the side walls 87 fold like an accordion to fit within the frame 62 of the foldout enclosure 56. A toilet does not fit within the foldout enclosure 56 of Kovac when the enclosure 56 is collapsed, as required by claim 20.

At least for this reason, Applicants respectfully submit that independent claim 20, and dependent claims 21-24 and 26-28 are patentable.

### **Allowable Subject Matter**

The Examiner objected to claims 19 and 25, but indicated that claims 19 and 25 would be allowable if rewritten in independent form incorporating all the limitations of the base claim and any intervening claims. Applicants thank the Examiner for this notification.

New claim 33 incorporates the subject matter of objected-to claim 19 and base claim 16. New claim 34 incorporates the subject matter of objected-to claim 25 and base claim 20. Applicants respectfully submit that claims 33 and 34 are in condition for allowance.

### SUMMARY

It is respectfully submitted that each of the presently pending claims (claims 1-4, 6-9, 11-12, 14-29, and 31-34) is in condition for allowance and notification to that effect is requested. The Examiner is invited to contact Applicants' representative at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.

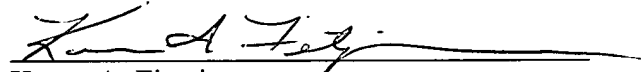
Although certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentably distinct. Applicants reserve the right to raise these arguments in the future.

Respectfully submitted,



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